#### MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:** 

March 3, 2003

**RESPONSIBLE STAFF:** 

Kirk Eby, GIS Planner

#### **AGENDA ITEM:**

(please check one)

•	Presentation
	Proclamation/Certificate
	Appointment
X	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

#### PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	2/14/2003
	2/19/2003
	2/21/2003
Hearing Held	3/3/2003
Record Held Open	3/12/2003
Policy Discussion	3/17/2003

# **TITLE: CSP-03-001**

Public hearing on CSP-03-001, concept plan for reuse of a property located at 611 South Frederick Avenue, also known as Macroland. The property is located in the CD (corridor development) Zone

## SUPPORTING BACKGROUND:

The property was originally approved for a warehouse use on February 17, 1993 by the Planning Commission's approval of site plan S-935. The approval included 6,500 sq. ft. of office on the upper floor and 5,500 sq. ft. of storage on the lower floor. The parking requirements were 23 spaces for the office portion and no spaces for the storage area in the basement.

An adjacent piece of land, known as the Royer Estate, was purchased by the owner of 611 South Frederick Avenue (Macroland), Mr. Rashidian, and annexed into the City on August 16, 1999 as X-176. The annexation agreement included a small portion of land adjacent to the Macroland property to be zoned commercial (C-B), to allow for expansion of the existing parking lot. The remainder of the Royer Estate was zoned R-90 upon annexation.

The concept proposes to change the use of the upper floor of the building from office to retail and office and change the lower floor of the building from storage to warehouse. Due to the proposed change of use, the parking requirements have increased. The proposal will require a total of 33 parking spaces, as outlined by the shared-parking requirements of Section 24-219(c) of the City Code. There are currently 23 parking spaces on-site and there will be a total of 30 parking spaces after the parking lot is expanded into the area permitted by annexation. The applicant is asking for a waiver of three (3) parking spaces in conjunction with the change of use.

Staff recommends the Mayor and Council close the record as of March 12, 2003 and schedule a policy discussion on March 17, 2003.

#### Attached:

Exhibit 1: Concept Site Plan Application

Exhibit 2: Legal Advertisements Exhibit 3: Annexation Agreement

Exhibit 4: Site Plan

# **DESIRED OUTCOME:**

Close the record as of March 12, 2003. Hold a policy discussion on March 17, 2003.

#1 CSP-03-001

City of Gaithersburg 3 South Summit Avenue Gaithersburg, Maryland 20877 Telephone: (301) 258-6330 NDMENT TO FINAL PLAN Application # // Date Filed \_ **APPLICATION** in accordance with Section 24, Article V of the City Code 1. SUBJECT PROPERTY MACROLAND Project Name\_ Street Address 611 S. PREDERICK AVE, MO 20877 GATHER SAURG ☐ No Historic area designation 

Yes Zone\_\_\_\_ \_\_\_\_\_ Block \_\_\_\_\_ Subdivision -Tax Identification Number (MUST BE FILLED IN)\_\_\_\_ 2. APPLICANT SHAHIN BATMANGLICH Name \_\_ 13 MARTINS LANE Suite No. Street Address \_\_\_ \_ Zip Code \_20856 POCKINILE State ND City 301 762 Daytime Telephone \_\_\_ 3. ARCHITECT/ENGINEER/DEVELOPER Architect's Name \_SHAHIN BATMAN GLICH 9765 Telephone 301 4046 804 301 762 178 Architect's Maryland Registration Number\_ Street Address 13 MARTINS LAWE \_\_ Suite Number \_ State MD Zip Code 20850 POURUITE City \_\_\_\_\_ Engineer's Name \_ Engineer's Maryland Registration Number\_\_\_\_\_\_\_ Telephone\_\_\_\_ \_\_\_\_\_ Suite Number \_\_\_\_\_ Street Address State \_\_\_\_\_ Zip Code\_\_\_\_\_ City \_\_\_\_\_ \_\_ Telephone \_\_\_\_ Developer's Name Suite Number\_\_\_\_\_ Street Address \_\_ State Zip Code \_\_\_\_\_ City \_\_\_ Telephone\_\_\_\_ Contact Person \_\_\_ 4. PROPERTY OWNER PARVIZ RASHOIAN Name ... 611 5 PREDERICK AVE \_\_\_\_\_ Suite No.\_ Street Address \_ CAITHERSBURG State MD Zip Code 20877 Daytime Telephone 301 721 1400 5. CITY PROJECT NUMBER \_\_\_\_ Date Approved \_\_\_\_\_ Original Site Plan Number\_ Name of previously approved Final Plan

6. WC	)RK	DESCI	RIP	TI	ON
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Please state clearly cha	anges requeste	d from final ap	proved p	ian.	~. m	-7.47	PURPOSI	e or
51 TH.	PIRAL	AMEN	IDME	N				
	- AND TITE	- 1 m	THE	BULDI	NG	POR_	RETAIL	USE

#### PROJECT DETAIL INFORMATION

POPULATION CHANGES (if any)

Changes in population estimated due to amendment.

Employee estimate:

Total number

Resident estimate:

Total number

Total number per shift

Total number per dwelling unit

b. PLEASE SUPPLY THE FOLLOWING INFORMATION

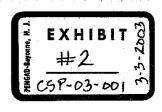
DEVELOPMENT INFORMATION	1	REQUIRED	PROVIDED
		74 P38 3F	24,038 54
1. Site (square feet)		27,050	0.5519
2. Site Area (acres)		24,038 3F 0.5518 ONE	DATE.
3. Total Number of Dwelling Units/I	ots	ane.	30'
4. Height of Tallest Building			5930
5. Green Area (square feet)			0730
6. Number of Dwelling Units/Acre			
7. Lot Coverage (Percent)			21/0
8. Green Area (Percent)		20%	24,1/0
9. Residential		20% NA	NA
a. Single Family Detached	# Units	)	
b. Single Family Attached	# Units		
c. Multi-Family Condo	# Units		<del>                                     </del>
d. Multi-Family Apartment	# Units		<del> </del>
e. Other		8	2 2 7 020
10. Retail/Commercial	Sq. Ft.	NONE	3437 REQUI
11. Restaurant Class: DA DB DC	Sq. Ft.	NA	NA 25:40
12. Office/Professional	Sq. Ft.		2500
13. Warehouse/Storage	Sq. Ft.		3482
14. Parking PLEASE	SEE TABULA		77
15. Shared Parking/Waiver		30	23
16. Other			
17. Total			

### SUBMISSION REQUIREMENTS

- 1. Set of plans per the respective checklist. Plans must be folded to 8  $1/2 \times 11.$ "
- 2. Completion of the table above.

I have read and compl	ed with the submission rec	uirements and affirm that a	Il statements contained herein are true	e and
correct.	2 MATTIN	BATMANGL	iet	
Applicant's Name (please p	ant)			
			12/30/	102
Applicant's Signature	7	0 1000	Date	
Daytime Telephone	30/10	[1101]		

S3/2000





CITY OF GAITHERSBURG 31 South Summit Avenue Gaithersburg, Maryland 20877 Telephone: 301-258-6330

#### NOTICE OF PUBLIC HEARING

The City of Gaithersburg Mayor and Council will conduct a public hearing at the time and place noted below.

Meeting:

**PUBLIC HEARING** 

Application Type:

AMENDMENT TO FINAL PLAN

File Number.

AFP-01-003

Location:

**611 SOUTH FREDERICK AVENUE** 

Applicant:

**TANZ ARCHITECTS** 

Development:

MACROLAND - CHANGE OF USE FOR TOP FLOOR

Day/ Date/Time:

MONDAY, MARCH 3, 2003

Place:

COUNCIL CHAMBERS, GAITHERSBURG CITY HALL

31 SOUTH SUMMIT AVENUE

#### \*\*\*IMPORTANT \*\*\*

This is a proposal to amend a plan previously approved for warehouse to permit retail and office uses on the upper floor. The lower floor will remain warehouse. This is the first public hearing in a series of public opportunities to participate. Contact the Planning and Code Administration City Planner (listed below) at (301) 258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

Mayor and City Council meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime (on demand) two weeks after the public hearing via the Internet and Web TV at http://www.ci.gaithersburg.md.us.

CITY OF GAITHERSBURG

By:

Kirk Eby, GIS Planner

Planning and Code Administration

SEE LOCATION MAP ON REVERSE SIDE

### NOTICES SENT THIS 13th DAY OF FEBRUARY, 2003 TO:

#### **APPLICANT AND INTERESTED PARTIES**

(A list of interested parties and agencies is available in the file at the Planning and Code Administration Office.)

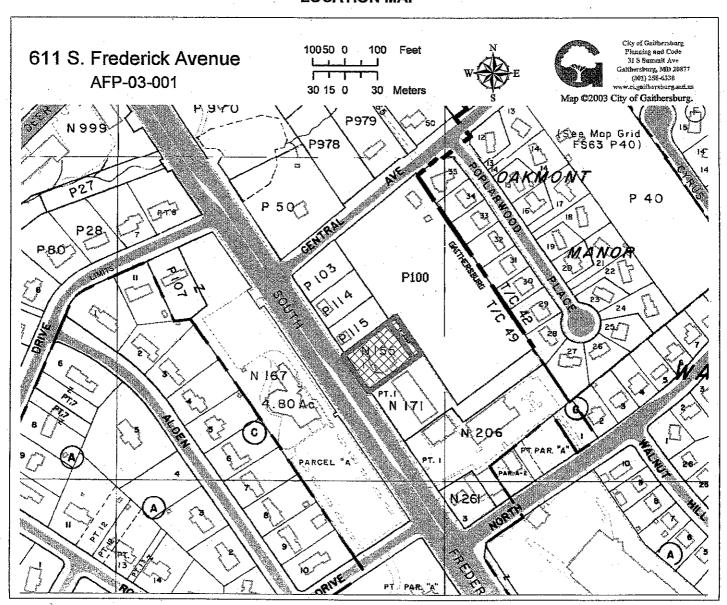
#### MÂYOR AND COUNCIL

#### PLANNING COMMISSION

#### **CITY STAFF**

David B. Humpton, City Manager Frederick J. Felton, Assistant City Manager Tony Tomasello, Assistant City Manager Stanley D. Abrams, City Attorney Mary Beth Smith, Public Information Director Doris Stokes, Administrative Assistant Jeff Baldwin, City Web Administrator (via email)

#### **LOCATION MAP**





#### PROOF OF PUBLICATION

I, Ryan E. Phillips Publisher of the Montgomery Journal a newspaper in the County/City of Montgomery published in the English language, and having a bona fide list of paid subscribers located in the aforementioned County/City, and entered as second class matter under the Postal Laws and Regulations of the United States of America for 52 successive weeks or more prior to the issue of 02/14/03, certify that the notice of FINAL SITE PLAN

for

CITY OF GAITHERSBURG attached hereto has been published on 02/14/2003, 02/21/2003.

Rvan E. Phillips

Sworn to and subscribed before me this 21st day of February, 2003.

My commission expires

viy commission expires

My Commission Expires March 31, 2003

Ad number: 16507931 End date: 02/21/2003 02/14/2003, 02/21/2003 CITY OF GAITHERSBURG

KIRK EBY

NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg, Marylanes will conduct a public hearing on Amendment to Kinal Site Plan application AEP 63-001, filed by Tanz Architects, on

MONDAY MARCH 3, 2003 AT 7:30 P.M.

or as soon thereafter as it may be heard in the Council Chambers at City Hall, 31 South Summir Avenue, Gaithersburg, Maryland

The applicant requests approval of an Amendment to I wild Sie Plan (AFF), located at 611 South Frederick Avenue, in Gathers burg, Maryland. The applicant requests to Change the use of the applicant requests to Change the use of the applicant requests for commercial/retail sales and/or general office use. The subject property is located on the eastern side of 5. Frederick Avenue (MD) Route 355) between Central Avenue and North Westland Drive in the Corndor Development (CD) Zone.

Further information may be obtained from the Department of Planting and Code Administration at City Hall, 31 South Summit Avenue, between the flows of 8 a.m. and 5 pm. Monday through Enday.

J. Kirk Eby. CIS Planner Planning and Code Administration

February 14 & 21, 2003 M16507931bc

# **GAZETTE NEWSPAPERS**

9030 Comprint Court, Gaithersburg, MD 20877. 301-670-2544

This is to certify that the annexed advertisement of:

The Notice of Public Hearing - AFP-03-001, 3/3/2003

was published in the Gaithersburg Gazette Newspapers, a weekly newspaper published in Montgomery County, Maryland. The ad appeared once a week for (1) week(s) before the 20th of February, 2003.

Gaithersburg Publishing Company

Copy of ad attached

STACEY CAMPAGNA
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires October 12, 2004

# NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg, Maryland, will conduct a public hearing on Amendment to Final Site Plan application AFP-03-001, filed by Tanz Architects, on

MONDAY

MENANTE BACINA OF MARCH 3 2003

AT 7:30 P.M.

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue; Gaithersburg, Maryland.

The application requests approval of an Amendment to Final Site Plan (AFP), located at 611 South Frederick Avenue, in Gaithersburg, Maryland. The applicant requests to change the use of the upper floor to allow for commercial/retail sales and/or general office use. The subject property is located on the eastern side of S. Frederick Avenue (MD Route 355) between Central Avenue and North Westland Drive in the Corridor Development (CD) Zone.

Further information is available from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Kirk Eby, GIS Planner
Planning and Code Administration

1t 2/19/03 (G)

LF 17523.061



PARCEL ID No

ANNEXATION AGREEMENT (X-176)

THIS ANNEXATION AGREEMENT, hereinafter referred to as "Agreement", made this 30 th day of august, 1999, by and between PARVIZ RASHIDIAN, hereinafter referred to as "Rashidian" (or "Owner") and CITY OF GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND, a municipal corporation of the State of Maryland, hereinafter referred to as "Gaithersburg".

#### WITNESSETH:

WHEREAS, Rashidian owns approximately 4.6 acres of land comprised of a parcel containing approximately 4.5 acres and a parcel of land containing approximately 4.9 acres of land located adjacent to the Macroland property as more particulary described in the legal descriptions attached hereto and incorporated herein respectively as Exhibit A-1 and A-2, hereinafter referred to as the "Property", and

WHEREAS, the Subject Property is contiguous to and adjoins the existing comporate boundaries of Gaithersburg; and

WHEREAS, Rashidian represents at least at Twenty -Five (25) percent of the persons who reside in the area to be annexed, who are registered voters in the County elections in the precinct or precincts in which the territory to be annexed is located, and is the owner of Twenty Five (25) percent of the assessed valuation of real property located in the area to be annexed; and

WHEREAS, pursuant to the provision of Section 19(c) of Article 23A of the Amotated Code of Maryland, a Resolution has been introduced to annex the Subject

99 SEP 27 N 10: 32 S

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Property; and

WHEREAS, public notices of the introduction of the Resolution to annex the Rashidian Property, have been published not fewer than four (4) times at not less than weekly intervals in a newspaper of general circulation in the City of Gaithersburg, in the area to be annexed, said notices specifying that public hearing would be held by the Mayor and Council on said Resolution at Gaithersburg City Hall, on January 5, 1998, at 7:30 p.m; and

WHEREAS, pursuant to the aforesaid notices, the Mayor and Council of
Gaithersburg conducted a public hearing on said Resolution at the time and place
provided for in said advertisement which hearing was not held less than fifteen (15) days
after the fourth publication of the public notice referred above; and

WHEREAS, at the conclusion of the public hearing the Mayor and Council left the record open indefinitely, to permit interested parties additional time to provide additional comments or information relative to the aforesaid Petitions for Annexation; and

WHEREAS, the annexation of the Subject Property will promote Gaithersburg's goal of annexation within Gaithersburg's maximum expansion limits, establish more concise and reasonable boundaries for the Gaithersburg corporate limits, and encourage efficient and effective delivery of public services and placement of public facilities; and

WHEREAS, Gaithersburg intends to annex the Rashidian Property, subject to the terms and conditions of this Annexation Agreement as requested by owner, and

WHEREAS, in an Ordinance to accompany its Annexation Resolution,

Gaithersburg intends to rezone the Property, subject to certain development provisions

contained in this Annexation Agreement; and

WHEREAS, the property is currently zoned R-200 in Montgomery County and the designation requested for the 4.50 acre parcel is the City's R-90 (Medium Density Residential Zoning), and the designation requested for the .099 acre parcel is CB (Commercial Buffer Zoning). The purpose and effect of this annexation is to allow Macroland to use the CB zoned portion of the land only to facilitate ingress and egress of delivery trucks at the rear of the building, while maintaining a residential use on the 4.50 acre balance of the property.

WHEREAS, all parties desire to execute this Annexation Agreement to establish the conditions under which the Property, shall be annexed, rezoned and developed.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

- 1. All recitals contained herein above shall become part of this Agreement and be binding upon the parties.
- 2. Upon annexation of the Property, into Gaithersburg, Rashidian shall be permitted to extend the existing parking area on its eastern quadrant, to the extent depicted on Exhibit B-1 (the C-B Concept Plan) and shall be subject to all applicable City code & zoning requirements. This area shall be zoned CB and only be used for parking access to the adjacent commercial building and shall be constructed, buffered and screened substantially in accord and with Exhibit B-1.

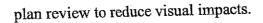
- 3. The R-90 zoned portion of the property is required to meet all of the requirements of the City's Environmental Standards including the 100' wide stream buffer. There shall be no encroachment into the buffer by any paving or grading of any kind. The remaining areas of the property shall be zoned R-90; provided however, the owner agrees that the Mayor and City Council shall review and approve any site plan proposed for the R-90 zoned portion prior to review by the City Planing Commission. The R-90 and C-B zoned portions of the property shall be subject to final site plan approval by the City Planning Commission.
- 4. The benefits and obligations provided by this Agreement shall not only apply to the existing buildings, but shall also apply to any new construction, as well as any reconstruction or renovation which becomes necessary as a result of damage or demolition resulting from fire, explosion, natural disaster or other catastrophe.

Notwithstanding the foregoing any modifications, new construction, reconstruction or renovation of the existing building must be in compliance with the applicable building, fire, and other applicable governmental requirements and codes in effect of the time of any modifications, new construction reconstruction or renovation and must utilize the same building footprint as the previously existing structure.

5. All parking to be developed in conjunction with re-use proposals must be screened and buffered from the view of adjacent residential properties. A detailed screening and buffering plan shall be submitted at the time of site

#### FOLID

# 0017571 185



- 6. The terms, conditions and provisions of this Annexation Agreement shall be deemed as covenants, running with the Property, and shall be binding upon and shall inure to the benefit and burdens of the parties hereto and their respective heirs, successors and assigns.
- 7. The parties hereto agree to execute any and all such documents and/or to take such actions necessary to carry out the terms and conditions of this Annexation Agreement.
- 8. This Annexation Agreement may be amended only in writing in an instrument signed by the parties or their successors and assigns.
- The parties agree that this Annexation shall be recorded among the Land Records of Montgomery County, Maryland, with the recording costs, if any, to be paid for by the Owners.
- 10. This Agreement, and undertakings set forth herein, shall be assignable, in whole or in part by the Owners without the consent of the City of Gaithersburg, to any subsequent purchase or all or part of the Owner's property.
- 11. The parties covenant that they each have full right, power and authority to enter into, carry out, perform and execute this Annexation Agreement.



IN WITNESS WHEREFOR, the parties have executed and sealed this Annexation Agreement as of the date first written above.

WITNESSES:

City of Gaithersburg

Parviz Ráshidian

THE CITY OF GAITHERSBURG, a municipal corporation

( )

BY: David B. Humpton, City Manager

BY:

Parviz Rashidian

# LF 17523.066



STATE OF MARYLAND

\* \* to wit:

COUNTY OF MONTGOMERY

I HEREBY CERTIFY, that on this \_\_\_\_\_\_\_ day of A\_\_\_\_\_\_, 1999, before me, a Notary Public in and for the State and County aforesaid, personally appeared PARVIZ RAHSIDIAN known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Annexation Agreement, and acknowledge that said individual executed the same or the purpose therein contained.

IN WITNESS WHEREOF, I	hereunto set my hand	l and official seal.
My Commission Expires: 7/1/20 [NOTARY SEAL]		Notary Public
	* * *	
STATE OF MARYLAND	*	

to wit:

COUNTY OF MONTGOMERY

hefore me, a Notary Public in and for the State and County aforesaid, personally appeared before me, a Notary Public in and for the State and County aforesaid, personally appeared before the City of Gaithersburg a municipal corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Annexation Agreement, and acknowledge that said individual executed the same or the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Karen L'Doepel

Notary Public

My Commission Expires: 10

12-1-99

[NOTARY SEAL]

96-2794

COLID



PART OF THE PROPERTY OF **PARVIZ RASHIDIAN** Part of Liber 14365 Folio 378 Gaithersburg Election District No. 9 Montgomery County, Maryland

All that piece or parcel of land situate, lying and being in the Gaithersburg Election District No. 9 Montgomery County Maryland, being part of the property conveyed to Parviz Rashidian by Ardean L. Owings and Thomas Owings Jr., by deed dated August 27, 1996 and recorded in the Land Records of Montgomery, County Maryland in Liber 14365 at Folio 378, as described in Liber 510 at Folio 252 and being more particularly described as follows:

Beginning for the same at a Rebar and Cap set at the most Northeasterly corner of said property, said pipe being on the Southeasterly side of Central Avenue and North 33° 40' 52" West 10.26 feet from the most Northwesterly corner of Lot 35 as shown on a Plat of Subdivision called Oakmont Manor as recorded in Plat Book 109 as Plat 12649 in the Land Records of Montgomery County, Maryland; thence running with the common division line between said plat and deed per a 1996 survey by Snider & Associates

- 1. South 33°40' 52" East, 650.59 feet to a Rebar and Cap set; thence
- 2. South 53°21' 07" West, 293.41 feet to a Rebar and Cap set; thence
- 3. North 32° 59' 28" West, 188.77 feet to a Rebar and Cap set; thence
- 4. North 33°52' 56" West, 145.12 feet to a point; thence
- 5. South 51°09' 44" West, 30.10 feet to a point; thence
- 6. North 33°52' 56" West, 299.94 feet to an Iron Pipe found on the Southwesterly side of said Central Avenue; thence
- 7. North 50°10' 38" East, 324.14 feet along said Central Avenue to the Point of Beginning and containing a computed area of 196,362.30 square feet or 4.5079 acres of land.

Subject, however, to any and all easements, rights of way, covenants, and encumbrances of record.

EXHIBIT A-1



DESCRIPTION
PART OF THE PROPERTY OF
PARVIZ RASHIDIAN
Part of Liber 14365 Folio 378
Gaithersburg Election District No. 9
Montgomery County, Maryland

All that piece or parcel of land situate, lying and being in the Gaithersburg Election District No. 9 Montgomery County Maryland, being part of the property conveyed to Parviz Rashidian by Ardean L. Owings and Thomas Owings Jr., by deed dated August 27, 1996 and recorded in the Land Records of Montgomery, County Maryland in Liber 14365 at Folio 378, as described in Liber 510 at Folio 252 and being more particularly described as follows:

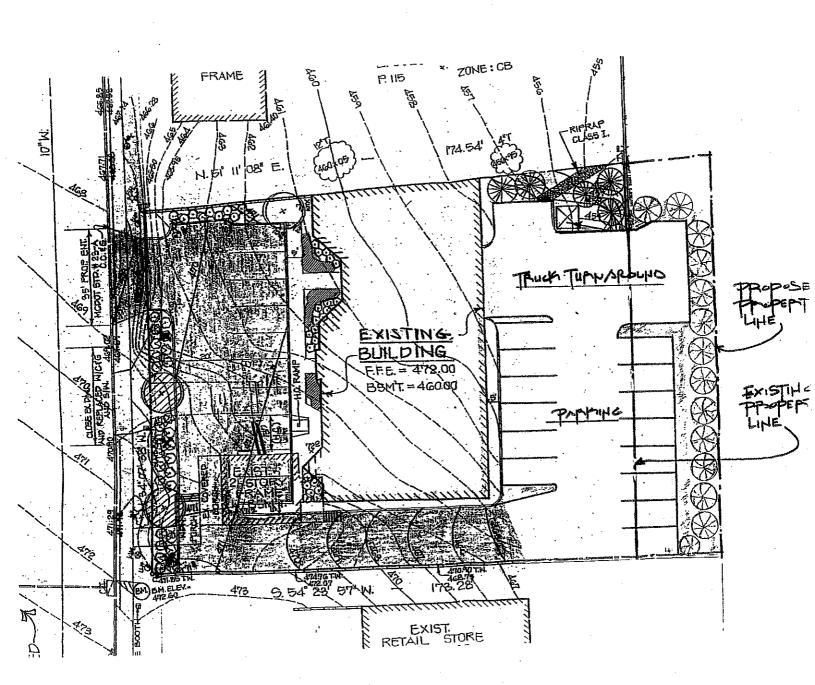
Beginning for the same at an Iron Pipe and Cap set at the beginning of the North 28° 35' 00" West 443 40 foot line of said deed said point also being at the end of the South 34° 01' 35" East 143.44 foot line of Lot 1 as shown on a Plat of Subdivision called Rashidian Estates as recorded in Plat Book 172 as Plat 19341 in the Land Records of Montgomery County, Maryland; thence running with the common division line between said plat and deed per a 1996 survey by Snider & Associates

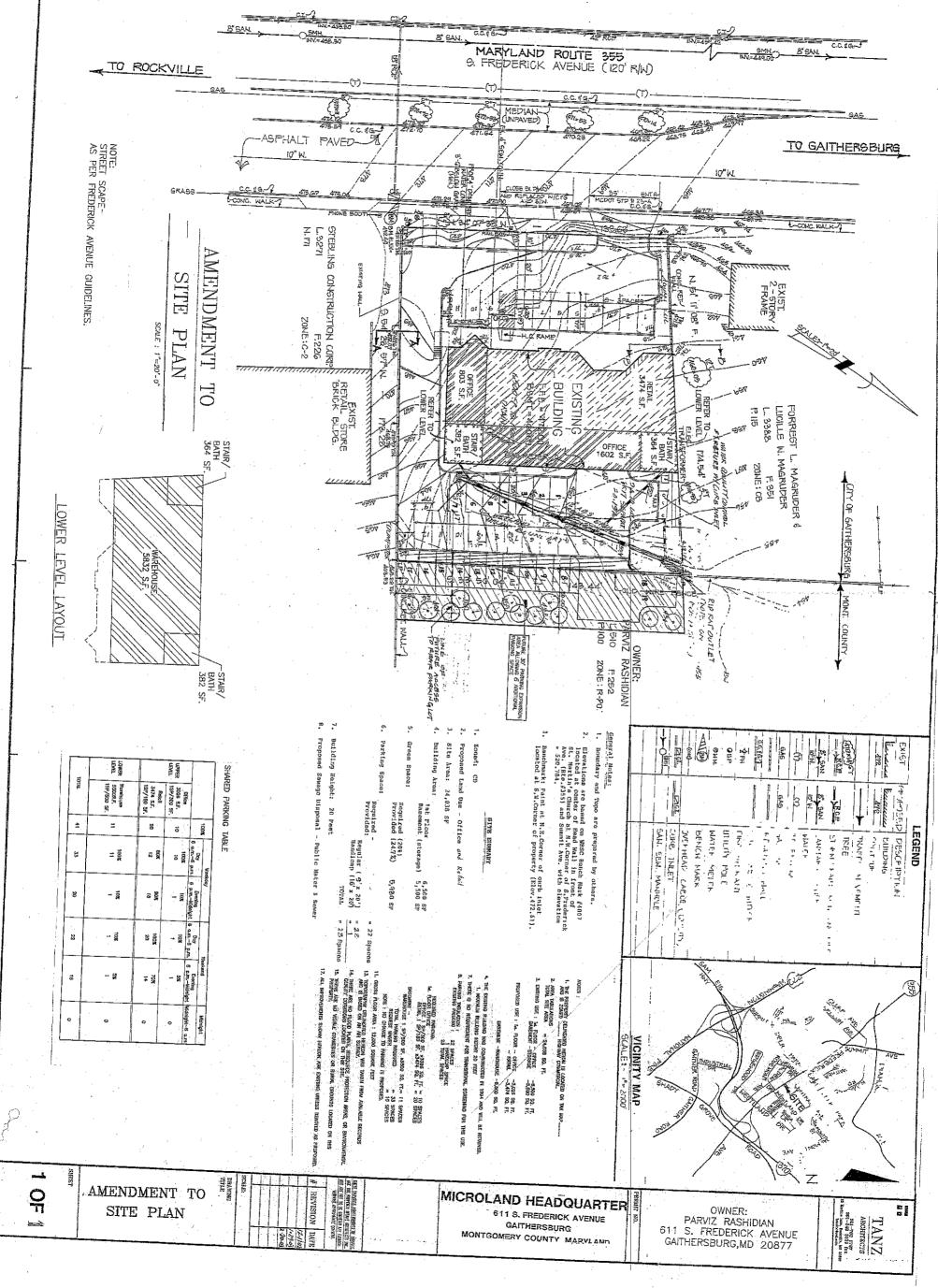
- 1. North 33° 52' 56" West, 143.43 feet to a point; thence leaving said lines to crossover and include a portion of said deed
- 2. North 51° 09' 44" East, 30.10 feet to a point; thence
- 3. South 33° 52' 56" East, 145.12 feet to an Iron pipe and cap set at the beginning of the South 58° 58' 00" West 30.00 foot line of said deed; thence running with said line as now surveyed
- 4. South 54° 22' 18" West, 30.00 feet to the Point of Beginning and containing a computed area of 4,326.31 square feet or 0.0993 acre of land.

Subject, however, to any and all easements, rights of way, covenants, and encumbrances of record.

EXHIBIT A-2







The Control of Market Control of the Control of the